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APPLICATION NO. FIRST NAMED INVENTOR FILING DATE ATTORNEY DOCKET NO. CONFIRMATION NO. 10/716,437 11/20/2003 Tomaso Vercellotti 2247-114 6624 7590 11/30/2004 EXAMINER ROTHWELL, FIGG, ERNST & MANBECK, P.C. PATEL, NIHIR B 1425 K STREET, N.W. SUITE 800 PAPER NUMBER ART UNIT WASHINGTON, DC 20005 3743

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

ļ	U.S.	Patent	and	Trademark	Office

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

Paper No(s)/Mail Date 11.20.2003.

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

4) Interview Summary (PTO-413) Paper No(s)/Mail Date. _

6) __ Other: _

5) Notice of Informal Patent Application (PTO-152)

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hood et al. US Patent No. 5,318,570. Hood discloses an ultrasonic tool that provides a surgical treatment on bone tissue by means of a tip set in vibration at a frequency in the ultrasound range.

Referring to claim 2, Hood discloses a surgical method that is used in orthopedic and neurological surgery (see abstract).

Referring to claim 3, Hood discloses a surgical method that is used in osteotomy treatment.

Referring to claim 4, Hood discloses a surgical method in that the osteotomy tratment provides bone restriction, breaking the continuity of the skeletal segment, by means of a osteotome tip set in vibration at a frequency in the ultrasound range,

Referring to claim 6, Hood discloses a surgical method that is used in ostectomy treatments.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hood et al. US Patent No. 5,318,570 in view of Idemoto et al. US Patent No. 4,832,683. Referring to claim 7, Hood discloses the applicant's invention as claimed with the exception of providing a surgical method that is used in oral, maxillo-facial and otorhino-laryyngol surgical procedures. Therefore it would have been obvious to modify Hood's invention by providing a surgical method that is used in oral, maxillo-facial and otorhino-laryyngol surgical procedures in order to make the tool more versatile and reduce he manufacturing cost.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hood et al. US Patent No. 5,318,570 in view of Hugo US Patent No. 6,267,594. Hood discloses the applicant's invention as claimed with the exception of providing a surgical method that is used for bone tissue incisions for bone sampling in hardly accessible areas. Hugo discloses a medical or dental-medical instrument for material removing working of body tissue and tool for such an instrument that does provide a surgical method that is used for bone tissue incisions for bone sampling in hardly accessible areas. Therefore it would have been obvious to modify Hood's invention by providing a surgical method that is used for bone tissue incisions for bone sampling in hardly accessible areas in order make the tool more versatile.

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Claim 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hood et al. US Patent No. 5,318570 in view of Anctil et al. US Patent No. 5,922,003. Referring to claims 13 and 14, Hood discloses the applicant's invention as claimed with the exception of providing a surgical method that is used for creation of a bone opening into the maxillary sinus by the ethmoidal crest route without damaging the sinusal membrane, and elevation thereof. Anctil discloses an angled rotary tissue cutting instrument and method of fabricating the same that does provide a surgical method that is used for creation of a bone opening into the maxillary sinus by the ethmoidal crest route without damaging the sinusal membrane, and elevation thereof. Therefore it would have been obvious to modify Hood's invention by providing a surgical method that is used for creation of a bone opening into the maxillary sinus by the ethmoidal crest route without damaging the sinusal membrane, and elevation thereof in order to make the tool more versatile.

Allowable Subject Matter

Claims 5, 8, 9, 12, 15, and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP November 23rd, 2004

> Henry Bernett Supervisory Patent Exami